



General Assembly

February Session, 2008

Raised Bill No. 61

LCO No. 225

00225_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING PROTECTION FOR WHISTLEBLOWERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-61dd of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2008*):

3 (a) Any person having knowledge of any matter involving
4 corruption, unethical practices, violation of state laws or regulations,
5 mismanagement, gross waste of funds, abuse of authority or danger to
6 the public safety occurring in any state department or agency or any
7 quasi-public agency, as defined in section 1-120, or any person having
8 knowledge of any matter involving corruption, violation of state or
9 federal laws or regulations, gross waste of funds, abuse of authority or
10 danger to the public safety occurring in any large state contract, may
11 transmit all facts and information in such person's possession
12 concerning such matter to the Auditors of Public Accounts. The
13 Auditors of Public Accounts shall review such matter and report their
14 findings and any recommendations to the Attorney General. Upon
15 receiving such a report, the Attorney General shall make such
16 investigation as the Attorney General deems proper regarding such
17 report and any other information that may be reasonably derived from

18 such report. Prior to conducting an investigation of any information
19 that may be reasonably derived from such report, the Attorney
20 General shall consult with the Auditors of Public Accounts concerning
21 the relationship of such additional information to the report that has
22 been issued pursuant to this subsection. Any such subsequent
23 investigation deemed appropriate by the Attorney General shall only
24 be conducted with the concurrence and assistance of the Auditors of
25 Public Accounts. At the request of the Attorney General or on their
26 own initiative, the auditors shall assist in the investigation. The
27 Attorney General shall have power to summon witnesses, require the
28 production of any necessary books, papers or other documents and
29 administer oaths to witnesses, where necessary, for the purpose of an
30 investigation pursuant to this section. Upon the conclusion of the
31 investigation, the Attorney General shall where necessary, report any
32 findings to the Governor, or in matters involving criminal activity, to
33 the Chief State's Attorney. In addition to the exempt records provision
34 of section 1-210 of the 2008 supplement to the general statutes, the
35 Auditors of Public Accounts and the Attorney General shall not, after
36 receipt of any information from a person under the provisions of this
37 section, disclose the identity of such person without such person's
38 consent unless the Auditors of Public Accounts or the Attorney
39 General determines that such disclosure is unavoidable, and may
40 withhold records of such investigation, during the pendency of the
41 investigation.

42 (b) (1) No state officer or employee, as defined in section 4-141, no
43 quasi-public agency officer or employee, no officer or employee of a
44 large state contractor and no appointing authority shall take or
45 threaten to take any personnel action against any state or quasi-public
46 agency employee or any employee of a large state contractor in
47 retaliation for such employee's or contractor's disclosure of
48 information to (A) an employee of the Auditors of Public Accounts or
49 the Attorney General under the provisions of subsection (a) of this
50 section; (B) an employee of the state agency or quasi-public agency
51 where such state officer or employee is employed; (C) an employee of

52 a state agency pursuant to a mandated reporter statute; or (D) in the
53 case of a large state contractor, an employee of the contracting state
54 agency concerning information involving the large state contract.

55 (2) If a state or quasi-public agency employee or an employee of a
56 large state contractor alleges that a personnel action has been
57 threatened or taken in violation of subdivision (1) of this subsection,
58 the employee may notify the Attorney General, who shall investigate
59 pursuant to subsection (a) of this section. If the Attorney General
60 determines that such personnel action was in retaliation for such
61 employee's or contractor's disclosure of information pursuant to this
62 section, the Attorney General may intervene in any proceeding
63 pursuant to subdivision (3) of this subsection.

64 (3) (A) Not later than thirty days after learning of the specific
65 incident giving rise to a claim that a personnel action has been
66 threatened or has occurred in violation of subdivision (1) of this
67 subsection, a state or quasi-public agency employee, an employee of a
68 large state contractor or the employee's attorney may file a complaint
69 concerning such personnel action with the Chief Human Rights
70 Referee designated under section 46a-57. Such complaint may be
71 amended if an additional incident giving rise to a claim under this
72 subdivision occurs subsequent to the filing of the original complaint.
73 The Chief Human Rights Referee shall assign the complaint to a
74 human rights referee appointed under section 46a-57, who shall
75 conduct a hearing and issue a decision concerning whether the officer
76 or employee taking or threatening to take the personnel action violated
77 any provision of this section. If, during the pendency of the hearing,
78 the human rights referee has reasonable cause to believe that an officer
79 or employee has taken additional personnel action in violation of
80 subdivision (1) of subsection (b) of this section, such referee may order
81 such temporary equitable relief, including, but not limited to, an order
82 reinstating the person filing the complaint to the same position held
83 before such personnel action was taken. If, after the hearing, the
84 human rights referee finds [such] a violation, the referee may award

85 the aggrieved employee reinstatement to the employee's former
86 position, back pay and reestablishment of any employee benefits for
87 which the employee would otherwise have been eligible if such
88 violation had not occurred, reasonable attorneys' fees, and any other
89 damages. The human rights referee shall also forward the decision
90 finding such violation and award to the head of the agency and the
91 supervisor of the employee or officer who violated subdivision (1) of
92 subsection (b) of this section and the commissioner of such
93 administrative services, who shall take appropriate personnel action.
94 Such decision and any personnel action shall be a public record and
95 posted on the Department of Administrative Services' website. For the
96 purposes of this subsection, such human rights referee shall act as an
97 independent hearing officer. The decision of a human rights referee
98 under this subsection may be appealed by any person who was a party
99 at such hearing, in accordance with the provisions of section 4-183.

100 (B) The Chief Human Rights Referee shall adopt regulations, in
101 accordance with the provisions of chapter 54, establishing the
102 procedure for filing complaints and noticing and conducting hearings
103 under subparagraph (A) of this subdivision.

104 (4) As an alternative to the provisions of subdivisions (2) and (3) of
105 this subsection: (A) A state or quasi-public agency employee who
106 alleges that a personnel action has been threatened or taken may file an
107 appeal not later than thirty days after learning of the specific incident
108 giving rise to such claim with the Employees' Review Board under
109 section 5-202, or, in the case of a state or quasi-public agency employee
110 covered by a collective bargaining contract, in accordance with the
111 procedure provided by such contract; or (B) an employee of a large
112 state contractor alleging that such action has been threatened or taken
113 may, after exhausting all available administrative remedies, bring a
114 civil action in accordance with the provisions of subsection (c) of
115 section 31-51m.

116 (5) In any proceeding under subdivision (2), (3) or (4) of this

117 subsection concerning a personnel action taken or threatened against
118 any state or quasi-public agency employee or any employee of a large
119 state contractor, which personnel action occurs not later than [one
120 year] three years after the employee first transmits facts and
121 information concerning a matter under subsection (a) of this section to
122 the Auditors of Public Accounts or the Attorney General, there shall be
123 a rebuttable presumption that the personnel action is in retaliation for
124 the action taken by the employee under subsection (a) of this section.

125 (6) If a state officer or employee, as defined in section 4-141, a quasi-
126 public agency officer or employee, an officer or employee of a large
127 state contractor or an appointing authority takes or threatens to take
128 any action to impede, fail to renew or cancel a contract between a state
129 agency and a large state contractor, or between a large state contractor
130 and its subcontractor, in retaliation for the disclosure of information
131 pursuant to subsection (a) of this section to any agency listed in
132 subdivision (1) of this subsection, such affected agency, contractor or
133 subcontractor may, not later than ninety days after learning of such
134 action, threat or failure to renew, bring a civil action in the superior
135 court for the judicial district of Hartford to recover damages, attorney's
136 fees and costs.

137 (c) Any employee of a state or quasi-public agency or large state
138 contractor, who is found to have knowingly and maliciously made
139 false charges under subsection (a) of this section, shall be subject to
140 disciplinary action by such employee's appointing authority up to and
141 including dismissal. In the case of a state or quasi-public agency
142 employee, such action shall be subject to appeal to the Employees'
143 Review Board in accordance with section 5-202, or in the case of state
144 or quasi-public agency employees included in collective bargaining
145 contracts, the procedure provided by such contracts.

146 (d) On or before September first, annually, the Auditors of Public
147 Accounts shall submit to the clerk of each house of the General
148 Assembly a report indicating the number of matters for which facts

149 and information were transmitted to the auditors pursuant to this
150 section during the preceding state fiscal year and the disposition of
151 each such matter.

152 (e) Each contract between a state or quasi-public agency and a large
153 state contractor shall provide that, if an officer, employee or
154 appointing authority of a large state contractor takes or threatens to
155 take any personnel action against any employee of the contractor in
156 retaliation for such employee's disclosure of information to any
157 employee of the contracting state or quasi-public agency or the
158 Auditors of Public Accounts or the Attorney General under the
159 provisions of subsection (a) of this section, the contractor shall be liable
160 for a civil penalty of not more than five thousand dollars for each
161 offense, up to a maximum of twenty per cent of the value of the
162 contract. Each violation shall be a separate and distinct offense and in
163 the case of a continuing violation each calendar day's continuance of
164 the violation shall be deemed to be a separate and distinct offense. The
165 executive head of the state or quasi-public agency may request the
166 Attorney General to bring a civil action in the superior court for the
167 judicial district of Hartford to seek imposition and recovery of such
168 civil penalty.

169 (f) Each large state contractor shall post a notice of the provisions of
170 this section relating to large state contractors in a conspicuous place
171 which is readily available for viewing by the employees of the
172 contractor.

173 (g) No person who, in good faith, discloses information to the
174 Auditors of Public Accounts or the Attorney General in accordance
175 with this section shall be liable for any civil damages resulting from
176 such good faith disclosure.

177 (h) As used in this section:

178 (1) "Large state contract" means a contract between an entity and a
179 state or quasi-public agency, having a value of five million dollars or

180 more; and

181 (2) "Large state contractor" means an entity that has entered into a
182 large state contract with a state or quasi-public agency.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2008</i>	4-61dd
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Statement of Purpose:

To provide additional protection for whistleblowers who may be subject to retaliation by their employers through grants of additional authority for the Attorney General and human rights hearing referees.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]